

## **NATURE OF THE CASE OR LEGAL PROBLEM OFFICE OF COUNSEL**

The Tabular Matrix in Tab C contains FACTOR ONE ELEMENTS for determining the TYPE of case, i.e., the level of difficulty. There are four columns. The first column on the left-hand side contains the three major groups of FACTOR ONE elements as contained in the OPM Standards. The first deals with the COMPLEXITY of the case or legal problem and the AVAILABILITY of PRECEDENT DECISIONS. The second deals with the IMPACT of the case or legal problem in economic, political, or social terms and its DELICACY. The third deals with MONEY, the NATURE OF THE COMPETITION, and PUBLIC INTEREST. The second, third and fourth columns contain excerpts from the OPM Standards for TYPE I, TYPE II, and TYPE III, respectively. As noted above, the TYPE difficulty is described in terms of minimum characteristics. Thus, there are no intervening categories. If the evaluation concludes that TYPE I is exceeded, but TYPE II is not FULLY MET, then only TYPE I is credited. This is true no matter how far TYPE I is exceeded or how close TYPE II is approximated. The same is true for TYPE II and TYPE III.

When using the latter three columns, it is suggested that one first analyze a major job duty or typical examples of regular and recurring work against TYPE II first. If it is not fully met, then it must be credited as TYPE I. If TYPE II is fully met, then determine whether it is exceeded. If it is, then determine whether TYPE III is fully met. Again, if TYPE III is NOT fully met, then TYPE II is credited.

## **MAJOR FUNCTIONS**

### **A. PROCUREMENT**

#### **1. CONTRACT FORMATION ACTIVITIES**

Acquisition Planning

Drafting

Specification and Solicitation Review

Mistakes In Bid

Bid protests

Bonding

Funding

Award

Litigation

## MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES IN CONTRACT FORMATION ACTIVITIES

### TYPE III EXAMPLES

- Researches, analyzes, and provides legal advice on problems arising during contract formation which directly affect the award of contracts involving very large sums of money with nationwide interest beyond the government contracting community (e.g., protests based upon Adarand v. United States).<sup>2</sup>

- Researches, analyzes, and provides legal advice on mistakes-in-bid and bonding issues where they involve unusual delicacy including but not limited to cases pertaining to fraud.

- Participates in the development and execution of acquisition planning involving programs with very large sums of money having nationwide interest due to high visibility, sensitivity, or impacting major private or public interests.

- Researches, analyzes and provides legal advice during various stages of the contract formation process where complex factual or policy issues require extensive research and analysis, and obtaining and evaluating expert testimony or information in financial, engineering, and other highly technical areas.

## 2. CLAIMS, DISPUTES, AND APPEALS ACTIVITIES

Affirmative and Defensive Claims

Drafting Final Decisions of the Contracting Officer

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<sup>2</sup> Cases or problems of this type will involve extremely capable opposing legal talent who frequently vigorously contest the matter at issue.

Trials before Boards of Contract Appeals

Court of Federal Claims Litigation

Alternate Dispute Resolution

**MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES RELATING TO PROCESSING AND RESOLVING CONTRACT CLAIMS, DISPUTES, AND APPEALS.**

**TYPE III EXAMPLES**

- Reviews, analyzes, and provides legal advice on disposition of contract claims/disputes, or prepares final decisions of the Contracting Officer, or acts as trial attorney on cases involving complex factual issues. Examples of complex factual issues include impact claims, extended overhead, differing site conditions, and quantum issues, which require extensive research, analysis, and obtaining and evaluating expert testimony or information.

**3. CONTRACT PERFORMANCE ACTIVITIES**

Contract Interpretation

Review of Contract Modifications

Terminations

Suspension/Debarment

Bankruptcy

Contractor Performance Evaluation

Novations/Assignments

Contractor Industrial Relations Program Activities

## MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES RELATING TO CONTRACT PERFORMANCE

### TYPE III EXAMPLES

- Reviews, analyzes, and provides legal advice during contract performance on issues of unusual delicacy, e.g., performance based terminations for default, suspensions, debarments, and fraud, all of which have a great burden of proof on the government and can result in serious consequence of error.

- Reviews, analyzes, and provides legal advice during contract performance on questions involving complex factual issues involving contract interpretation, negotiation, and modification which require extensive research, analysis, and obtaining and evaluating expert testimony or information. Examples may include differing site conditions, variations in estimated quantities and terminations for convenience.

#### 4. POST CONTRACT PERFORMANCE ACTIVITIES

Contract closeout

A-E Liability

Warranties

Latent Defects

Litigation

## MAJOR DUTY: PROVIDES LEGAL SUPPORT FOR POST-CONTRACT PERFORMANCE ACTION

### TYPE III EXAMPLES

- Reviews, analyzes, and provides legal advice on post-contract performance actions, e.g., A-E liability, warranty issues, and latent defects, for cases involving complex factual issues which require extensive research, analysis, and obtaining and evaluating expert testimony or information.

## 5. PROCUREMENT FRAUD ADVISOR ACTIVITIES

Procurement Fraud Flash Reports

Suspension/Debarment Reports

Procurement Fraud Remedies Plan

Litigation

**MAJOR DUTY: MANAGES AND ADMINISTERS THE PROCUREMENT FRAUD PREVENTION PROGRAM**

### **TYPE III EXAMPLES**

- Investigates, researches, analyzes, opines and disposes or recommends disposition of cases involving procurement fraud, which could result in criminal prosecution, civil suit, contract action, administrative action, loss of bonding capacity or suspension/debarment. These cases necessarily contain issues of unusual delicacy, involve extremely capable opposing legal talent, or consist of complex factual issues that require extensive research analysis, and obtaining and evaluating expert testimony or information.

## **B. REGULATORY AND ENVIRONMENTAL LAW**

### 1. REGULATORY ACTIVITIES

Interpretation of regulations, laws, policy, etc.

Review environmental and other documents

Draft statement of findings in controversial matters

Taking implications analysis

Analyze factual situations as they relate to laws, regulations, policies, etc.

Review mitigation, Performance bonds

Participate in public meetings/hearings

Recommend enforcement actions

Participate in Alternative Dispute Resolution processes

Litigation

Regulatory appeals (Implementation Pending)

**MAJOR DUTY: PROVIDES LEGAL SUPPORT TO THE REGULATORY PERMIT PROGRAM**

**TYPE III EXAMPLES**

- Reviews, analyzes, and provides legal advice on permit decisions which may involve very large sums of money and/or involve extremely capable opposing legal talent who frequently vigorously contest these cases. They must have nationwide interest from developers, regulatory agencies, public interest groups, environmental organizations and landowners.

- Reviews, analyzes, and provides legal advice on taking cases involving claims of inverse condemnation which often involve complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information in the areas of land use, fair market value, highest and best use and uneconomic remnants.

- Reviews, analyzes, and provides legal advice on wetland determinations which normally involve complex factual issues requiring extensive research, analysis and obtaining and evaluating expert testimony or information in the area of wetland and ecosystem sciences.

- Reviews, analyzes, and provides legal advice on regulatory jurisdictional issues/matters which could result in either substantially broadening or restricting the activities of the Department of the Army's regulatory program.

**2. ENVIRONMENTAL PROGRAM ACTIVITIES**

Interpretation of regulations, laws, policies, etc.

Review of environmental and other project documents

Attend public meetings and hearings

Participate in Alternative Dispute Resolution processes

Litigation

**MAJOR DUTY: PROVIDES LEGAL SUPPORT TO PROJECTS AND ACTIVITIES CONCERNING ENVIRONMENTAL LAWS AND REQUIREMENTS**

**TYPE III EXAMPLES**

- Reviews, analyzes, and provides legal advice on environmental, cultural and natural resource matters presenting complex factual issues requiring extensive research, analysis and obtaining and evaluating expert testimony or information, e.g., EISs, biological opinions, cultural resource documents. Although not required, it should be noted that extremely capable legal talent frequently vigorously contests these cases.

**C. ENVIRONMENTAL RESTORATION/REMEDIATION**

Drafting

Negotiation

Interpretation

Alternative Dispute Resolution Processes

Intergovernmental affairs

Specialized contracting

Funding issues

Litigation

**MAJOR DUTY: PROVIDE LEGAL SUPPORT TO ENVIRONMENTAL RESTORATION/REMEDATION MISSIONS**

**TYPE III EXAMPLE**

- Research, analyze, and provide legal advice on hazardous, toxic and radioactive waste (HTRW), including ordnance and explosive waste, projects being performed at active installations, formerly used defense sites (FUDS), and non-DOD facilities. Questions require the interpretation of Federal and state environmental remediation statutes, determination of responsibility for removal of contaminants or remediation of the site, negotiations with other potentially responsible parties and regulators, advice on the proper use of funds, and advice on the use of specialized contracts any or all of which involve complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information covering applicable environmental science and scientific disciplines.

**D. NON-CONTRACT CLAIMS**

Investigate

Recommend disposition

Decide (within delegated authority)

Process

Advise on corrective measures

Litigation

**MAJOR DUTY: INVESTIGATES, PROCESSES, AND DETERMINES OR RECOMMENDS DISPOSITION OF TORT AND ADMIRALTY CLAIMS**

**TYPE III EXAMPLES**

- Researches, analyzes, and provides legal advice on disposition of tort and admiralty claims on cases involving complex factual issues requiring extensive research, analysis and obtaining and evaluating expert testimony or information such as medical testimony or engineering analysis.

- Researches, analyzes, and provides legal advice on disposition of tort and admiralty claims on cases or matters which could result in either substantially



broadening or restricting the agencies activities.

## **E. PERSONNEL**

Grievance (negotiated/Army)

Arbitration

FLRA

MSPB

EEOC/OCI

Union negotiations

Office of Special Counsel

Litigation

**MAJOR DUTY - PROVIDES LEGAL SUPPORT FOR AND PARTICIPATES  
IN ADMINISTRATIVE PROCEEDINGS AND NEGOTIATIONS  
CONCERNING PERSONNEL ISSUES**

### **TYPE III EXAMPLE**

- Researches, analyzes, and provides legal advice on or acts as agency representative in personnel matters, such as EEO and sexual harassment, involving compensatory damages which frequently involve complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information in scientific disciplines involving physical, emotional, and mental conditions. These include specialists such as medical doctors, psychologists, and psychiatrists.

## **F. GENERAL LAW**

PCAs

Legislative requests

Project authorization, modification, and operation

Indian affairs

Water supply

Recreation

Navigability/Maritime

Mobilization

FOIA/Privacy Act

Hydropower

Private/public use of project lands

International affairs

Emergency operations

Fiscal law

Taxation

Law enforcement

IG activities

Ethics (Conflicts of Interest & Standards of Conduct)

Title 36 (citation authority)

CID matters

Army Audit Agency matters

AR 15-6 (Command Investigations)

MOUs/MOAs

Interagency affairs

Reports of Survey

Miscellaneous Real Estate law

Project Document Analysis and Interpretation

Chief Financial Officers Act

Grant and cooperative agreements

Economy Act agreements

Intergovernmental agreements

**MAJOR DUTY: PROVIDES LEGAL SUPPORT IN ALL AREAS OF GENERAL LAW**

**TYPE III EXAMPLES**

- Most legal work under the general law activities will normally involve Type II work. There may be, however, instances which frequently involve complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information involving engineering, scientific and financial disciplines, or are of unusual delicacy in cases of fraud. In the aggregate, Type III cases must involve at least 25% of the attorney's legal work in order to be grade controlling.

# **NATURE OF THE CASE OR LEGAL PROBLEM REAL ESTATE**

## **MAJOR FUNCTION**

### **A. REAL ESTATE ACQUISITION**

#### **1. ACQUISITION ACTIVITIES, BOTH IN-HOUSE AND FOR PROJECT SPONSOR**

Interpret regulations, laws, policies, etc.

Review environmental, planning and other documents

Prepare takings analysis

Prepare compensability determinations

Determine nature of estate

Prepare relocation contracts

Prepare Cemetery condemnations/relocations

Review Real Estate design memoranda

Draft non-standard estate

Legal advice for appraisals

Provide advice on real estate issues arising out of title evidence and appraisal contract formation and administration

Perform title search, title review and title curative actions

Prepare/review Offer to Sell

Prepare deeds and curative instruments or transfer documents

Prepare for closing/Closes

PL 91-646 issues, including relocation assistance, last resort housing and appeals

Prepare Final Title Opinion

Handle mineral and water rights issues

PCAs and project sponsor-related real estate issues.

MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES IN CONNECTION WITH THE ACQUISITION OF REAL PROPERTY INTERESTS, BY PURCHASE, DONATION, EXCHANGE, OR INTERAGENCY TRANSFER

TYPE III EXAMPLES

- Researches, analyzes, and provides legal advice during various stages of the real estate acquisition process and prepares appropriate legal documents for real estate acquisitions involving very large sums of money and/or frequently involving extremely capable opposing legal talent **and** where there is nationwide public interest, e.g., acquisitions for Everglades and Tennessee-Tombigbee projects.

- Researches, analyzes, and provides legal advice during various stages of the real estate acquisition process where complex factual or policy issues require extensive research and analysis, and obtaining and evaluating expert testimony or information in financial, engineering, and other highly technical areas, e.g., land use, fair market value, non-standard estates, highest and best use, uneconomic remnants, environmental, cultural or historical issues, remedies to cure defects found in title, mineral or water rights issues, appraisals.

TYPE II EXAMPLES

- Researches, analyzes, and provides legal advice during various stages of the real estate acquisition process and prepares appropriate legal documents for real estate acquisitions involving large sums of money **or** there is considerable interest from a significant segment of the population in the geographic area, e.g., local groups, environmental associations, or concerned citizens, **or** the case is strongly contested in formal hearings or informal negotiations with the landowner, tribal representatives, government agencies involved and/or their attorney.

- Researches, analyzes, and provides legal advice during various stages of the real estate acquisition process and prepares appropriate legal documents for real estate acquisition impacting economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of private, tribal, state or local government entities in a geographic region for a large public works project or military installation or activity.

- Researches, analyzes, and provides legal advice during various stages of the real estate acquisition process which involves difficult legal or factual questions because of the absence of clearly applicable precedents due to the newness of the program or novelty of the issues. This may include many of the same elements as the Type III case, but the legal or factual issues are less complex.

## 2. IN-LEASING ACTIVITIES

Interpret regulations, laws, policies, etc.

Review environmental documents relating to in-leases

Draft/review non-standard clauses

Negotiate

Review title

Interpret clauses

Process restoration claims

Draft/review in-lease assignments

MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES IN CONNECTION WITH THE NEGOTIATION, PREPARATION, EXECUTION, AND ADMINISTRATION OF IN-LEASES

TYPE III EXAMPLES

- Researches, analyzes, and provides legal advice during various stages of the lease formulation process and prepares appropriate legal documents for leases involving very large sums of money, and/or frequently involving extremely capable opposing legal talent **and** where there is nationwide public interest, e.g., individual lease actions meeting the dollar threshold in connection with such activities as Desert Storm/Desert Shield, Joint Guard, and other NATO peacekeeping missions.

- Researches, analyzes, and provides legal advice during various stages of the lease formulation process where complex factual or policy issues require extensive research and analysis, and obtaining and evaluating expert testimony or information in the areas of financial, engineering, and other highly technical areas, e.g., land use, fair market value, highest and best use, environmental, cultural or historical issues, appraisals, financial analysis.

TYPE II EXAMPLES

- Researches, analyzes, and provides legal advice during various stages of the lease formulation process and prepares appropriate legal documents for leases involving large sums of money **or** there is considerable interest from a significant segment of the population in the geographic area, e.g., local groups, environmental associations, or concerned citizens, **or** the case is strongly contested in formal hearings or informal negotiations with the landowner, tribal representatives, government agencies involved and/or their attorney.

- Researches, analyzes, and provides legal advice during various stages of the lease formulation process and prepares appropriate legal documents for leases impacting economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of private, tribal, state or local government entities in a geographic region for a large public works project or military installation or activity.

- Researches, analyzes, and provides legal advice during various stages of the lease formulation process which involves difficult legal or factual questions because of the absence of clearly applicable precedents due to the newness of the program or novelty of the issues. This may include many of the same elements as the Type

III case, but the legal or factual issues are less complex.

## **B. REAL ESTATE MANAGEMENT AND DISPOSAL**

Interpret regulations, laws, policies, etc.

Review of environmental, cultural and historic preservation documents

Resolve encroachments, title disputes and boundary-line disputes

Prepare documents for disposal or outgranting of real property

Support the Defense Environmental Restoration Program

Prepare Title Reports for oil, gas and other minerals

Review FERC licenses for non-Federal hydropower development for real estate issues

Determine ownership of property, including water and mineral rights

Advise on real property tax law

Review impact of annexation/zoning

Prepare documents to retrocede or acquire legislative jurisdiction

Support the Public Domain Withdrawal Review Program

Review/prepare water supply contracts and associated easements

**MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES RELATING TO MANAGEMENT AND DISPOSAL ACTIVITIES**

### **TYPE III EXAMPLES**

- Researches, analyzes, and provides legal advice during various stages of the real estate outgrant, management or disposal process and prepares appropriate legal documents for these real estate activities involving very large sums of money, and/or frequently involving extremely capable opposing legal talent **and** where there is nationwide public interest.



- Researches, analyzes, and provides legal advice during various stages of the out-grant, management or disposal process where complex factual or policy issues require extensive research and analysis, and obtaining and evaluating expert testimony or information in financial, engineering, and other highly technical areas, e.g., land use, fair market value, highest and best use, environmental, cultural or historical issues, mineral or water rights issues, appraisals, financial analysis, flood frequency and hydrology issues.

## TYPE II EXAMPLES

- Researches, analyzes, and provides legal advice during various stages of the real estate out-grant, management and disposal process and prepares appropriate legal documents for these real estate activities involving large sums of money **or** there is considerable interest from a significant segment of the population in the geographic area, e.g., local groups, environmental associations, or concerned citizens, **or** the case is strongly contested in formal hearings or informal negotiations with the proposed grantee, tribal representatives, government agencies involved and/or their attorney.

- Researches, analyzes, and provides legal advice during various stages of the real estate out-grant, management or disposal process and prepares appropriate legal documents for these real estate actions impacting economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of private, tribal, state or local government entities in a geographic region for a large public works project or military installation or activity.

- Researches, analyzes, and provides legal advice during various stages of the real estate out-grant, management or disposal process which involves difficult legal or factual questions because of the absence of clearly applicable precedents due to the newness of the program or novelty of the issues. This may include many of the same elements as the Type III case, but the legal or factual issues are less complex.

## **C. REAL ESTATE CLAIMS**

Investigate

Recommend Disposition

Process

Advise on Corrective Measures

**MAJOR DUTY: INVESTIGATE, PROCESS, AND DETERMINE OR RECOMMEND DISPOSITION OF REAL ESTATE CLAIMS INVOLVING DAMAGE TO REAL PROPERTY, INVERSE TAKINGS, MANEUVER PERMITS, RIGHT-OF-ENTRY PERMITS, RESTORATION AND OTHER LEASE CLAIMS**

### **TYPE III EXAMPLES**

- Research, analyze, and provide legal advice and prepare legal documents for the disposition of real estate claims involving damage to real property and inverse takings of any real property interest involving very large sums of money and/or issues frequently vigorously contested by extremely capable opposing legal talent and having nationwide interest, e.g., damage to private property by military activities in foreign countries.

- Research, analyze, and provide legal advice and draft legal documents for the disposition of real estate claims involving damage to real property and inverse takings of any real property interest where there are complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information, e.g., restoration claims involving settlement by transfer of title to government improvements to the landowner; tort or taking determinations; land use issues; fair market value, damage and appraisal issues; highest and best use.

### **TYPE II EXAMPLES**

- Research, analyze, and provide legal advice and prepare legal documents for the disposition of real estate claims involving damage to real property and inverse takings of any real property interest involving large sums of money or where the issues are strongly contested.

- Research, analyze, and provide legal advice and prepare legal documents for

the disposition of real estate claims involving damage to real property and inverse takings of any real property interest impacting economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of residents and state and local government entities in a large geographic region for a large public works project, e.g., changes in project operations which may have resulted in an inverse taking; military maneuvers.

- Research, analyze, and provide legal advice and prepare legal documents for the disposition of real estate claims involving damage to real property and inverse takings of real estate involving novel issues or where it is highly arguable which precedents apply because of the complexity of facts involved or the different possible constructions which may be placed on either the facts or the laws and precedents involved.

#### **D. REAL ESTATE LITIGATION**

Investigate

Prepare litigation reports/condemnation assemblies

Assist DOJ attorney in further preparation of case prior to trial, during the trial and at post trial and appellate stages.

Upon request, conduct trial or argue appeal.

**MAJOR DUTY: PREPARE LITIGATION REPORTS/CONDEMNATION ASSEMBLIES FOR USE BY DOJ ATTORNEYS IN CASES FILED BY OR AGAINST THE UNITED STATES; ASSIST DOJ ATTORNEYS IN ALL PRETRIAL AND TRIAL ASPECTS, OR TRY THE CASE UPON REQUEST; ON APPEAL ASSIST DOJ ATTORNEYS OR CONDUCT THE APPEAL OF CASES**

#### **TYPE III EXAMPLES**

- Research, analyze, and provide legal advice and prepare legal documents for real estate condemnation and litigation involving very large sums of money and/or issues frequently vigorously contested by extremely capable opposing legal talent and having nationwide interest.

- Research, analyze, and provide legal advice and prepare legal documents for real estate condemnation and litigation involving complex factual issues requiring

extensive research, analysis, and obtaining and evaluating expert testimony or information, e.g., including direct and inverse condemnation; cases involving conflict or differences between or among other Federal agencies or constitutional issues; cases involving navigability determinations and extent of navigation servitude as related to title and just compensation.

## **TYPE II EXAMPLES**

- Research, analyze, and provide legal advice and prepare legal documents for real estate condemnation and litigation involving large sums of money or where the issues are strongly contested.

- Research, analyze, and provide legal advice and prepare legal documents for real estate condemnation and litigation involving any real property interest impacting economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of residents and state and local government entities in a large geographic region for a large public works project, e.g., condemnations on behalf of project sponsor.

- Research, analyze, and provide legal advice and prepare legal documents for real estate condemnation and litigation involving novel issues or where it is highly arguable which precedents apply because of the complexity of facts involved or the different possible constructions which may be placed on either the facts or the laws and precedents involved.

## **E. HOMEOWNERS ASSISTANCE PROGRAM**

### **1. ACQUISITION AND BENEFIT ACTIVITIES**

Interpret regulations, laws, policies, etc.

Determine Eligibility

Review Market Impact Analysis

Provide advice on real estate issues arising out of title evidence contract formation and administration

Prepare title search, title review and title curative actions

Review Offer to Purchase

Review benefit calculations

Prepare deeds and curative instruments or transfer documents

Prepare for closing/Closes

Prepare Final Title Opinion

Review appeal

Prepare Investigation and Consideration Report

Prepare appeal assembly

**MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES RELATING TO HOMEOWNERS ASSISTANCE PROGRAM ACQUISITION AND BENEFIT ACTIVITIES INCLUDING ELIGIBILITY DETERMINATIONS AND APPEALS**

**TYPE III EXAMPLE**

- Research, analyze, and provide legal advice and prepare legal documents for the Homeowners Assistance Program acquisition and benefit activities where there are complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information.

**TYPE II EXAMPLES**

- Research, analyze, and provide legal advice and prepare legal documents for the Homeowners Assistance Program acquisition and benefit activities involving large sums of money or where the issue or activity is strongly contested.

- Research, analyze, and provide legal advice and prepare legal documents for the Homeowners Assistance Program acquisition and benefit activities where there is impact economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of residents and state and local government entities in a large geographic region.

- Research, analyze, and provide legal advice and draft legal documents for the Homeowners Assistance Program acquisition and benefit activities involving novel

issues or where it is highly arguable which precedents apply because of the complexity of facts involved or the different possible constructions which may be placed on either the facts or the laws and precedents involved.

## 2. MANAGEMENT AND DISPOSAL ACTIVITIES

Interpret regulations, laws, policies, etc.

Provide advice on real estate issues arising out of ownership and management of acquired properties

Resolve encroachments, title disputes and boundary line disputes

Prepare documents for disposal of real property

### MAJOR DUTY: ADVISES AND PERFORMS LEGAL SERVICES RELATING TO HOMEOWNERS ASSISTANCE PROGRAM MANAGEMENT AND DISPOSAL ACTIVITIES

#### TYPE III EXAMPLE

- Research, analyze, and provide legal advice and prepare legal documents for the Homeowners Assistance Program management and disposal activities where there are complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information.

#### TYPE II EXAMPLES

- Research, analyze, and provide legal advice and prepare legal documents for the Homeowners Assistance Program management and disposal activities involving large sums of money or where the issue or activity is strongly contested.

- Research, analyze, and provide legal advice and prepare legal documents for the Homeowners Assistance Program management and disposal activities where there is impact economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of residents and state and local government entities in a large geographic region.

- Research, analyze, and provide legal advice and draft legal documents for the Homeowners Assistance Program management and disposal activities involving

novel issues or where it is highly arguable which precedents apply because of the complexity of facts involved or the different possible constructions which may be placed on either the facts or the laws and precedents involved.

## **F. REAL ESTATE GENERAL LAW ACTIVITIES**

Mineral Rights

Relocations

Private/Public use of project lands

Indian real estate affairs

Mobilization

International real estate affairs

Emergency Operations

IG activities

Army Audit Agency affairs

MOUs/MOAs

Interagency affairs

Privatization

Third Party Initiatives

## MAJOR DUTY- PROVIDES LEGAL SUPPORT IN ALL AREAS OF GENERAL LAW INVOLVING REAL ESTATE MATTERS

### TYPE III EXAMPLES

- Most legal work under the general law activities will normally involve Type II work. There may be, however, instances which frequently involve complex factual issues requiring extensive research, analysis, and obtaining and evaluating expert testimony or information involving engineering, scientific and financial disciplines, or are of unusual delicacy in cases of fraud. In the aggregate, Type III cases must involve at least 25% of the attorney's legal work in order to be grade controlling.

### TYPE II EXAMPLES

- Researches, analyzes, and provides legal advice during various stages of real estate activities and prepares appropriate legal documents for actions involving large sums of money **or** there is considerable interest from a significant segment of the population in the geographic area, e.g., local groups, environmental associations, or concerned citizens, **or** the case is strongly contested in formal hearings or informal negotiations with the landowner, proposed grantee, tribal representatives, government agencies involved and/or their legal counsel.

- Researches, analyzes, and provides legal advice during various stages of real estate activities and prepares appropriate legal documents for actions impacting economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of private, tribal, state or local government entities in a geographic region for a large public works project or military installation or activity.

- Researches, analyzes, and provides legal advice during various stages of real estate activities which involve difficult legal or factual questions because of the absence of clearly applicable precedents due to the newness of the program or novelty of the issues, e.g., between the landowner, public or special interest groups, environmental issues, other Federal agencies, and the Army's requirements. For example, some Tribal request for use of real property under NAGPRA or Native American Religious Freedom Act, the status of Tribal reservation boundaries on a proposed activity, various international treaties, draft nonstandard interagency or intergovernmental agreements or MOUs/MOAs.